

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

WILLIAM F. SEVERINO, III,

Plaintiff,

v.

MIDDLESEX COUNTY PROSECUTOR'S
OFFICE, et al.,

Defendants.

Civil Action No. 19-19164 (MAS) (TJB)

MEMORANDUM ORDER

This matter comes before the Court on Plaintiff William F. Severino, III's ("Plaintiff") Motion for Reconsideration. (ECF No. 23.) County Defendants¹ and Sayreville Defendants² (collectively "Defendants") did not oppose. The Court has carefully considered Plaintiff's submission and decides the matter without oral argument pursuant to Local Civil Rule 78.1.

Federal Rule of Civil Procedure 60(b)(6) provides that a district court may "relieve a party . . . from a final judgment, order, or proceeding" based upon "any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6). Here, the docket reflects that the Court granted Defendants' Motions to Dismiss on September 14, 2020, and provided leave for Plaintiff to file an amended complaint by October 14, 2020. (ECF Nos. 19, 20.) Plaintiff failed to file an amended complaint by the deadline. The Court, consequently, entered a text order on December 10, 2020, affording Plaintiff until December 28, 2020 to file an amended complaint. (ECF No. 21.) Plaintiff did not file an amended

¹ The "County Defendants" consist of the Middlesex County Prosecutor's Office, Officer Andrew Caray, Chief Allysa Gambarella, Sergeant Jeffrey Maroccia, Detective Oscar Ayala, and Detective George Stilwell.

² The "Sayreville Defendants" consist of the Borough of Sayreville, Chief Zebrowski, and Detective Becker.

complaint by the extended deadline. The Court, therefore, dismissed Plaintiff's complaint with prejudice on January 7, 2021. (ECF No. 22.)

Plaintiff argues that he "attempted numerous times to file the complaint within time." (Pl.'s Mot. 1, ECF No. 23.) In support, Plaintiff attached proof that he mailed the amended complaint via certified mail.³ (ECF No. 23-1.) In addition, Plaintiff indicated that following his December 18, 2020 receipt of the Court's December 10, 2020 text order, he called the Court for an extension because "with Christmas and the weekend and back log of mail it wasn't going to make it there." (Pl.'s Mot. 1.) According to Plaintiff, he submitted the extension request to the e-mail address provided by the Court Clerk. (*Id.*) Plaintiff also stated (verbatim):

On January 11, 2021[1,] Mr. Severino called the [C]ourt to inquire about the status of the case, only to be told it was dismissed again, that the email wasn't received, Mr. Severino tried again to send the email and called again. This time the clerk asked how I was typing the email . . . I said the way the lady told me to write it, well he stopped me and told me that there's no "dot" between ecf and help [ecf.help] So I sent another email out and this time it did get to the [C]ourt only to be rejected because everything has to be in PDF format.

(*Id.* at 1-2 (third alteration in original).) Plaintiff argues that "reasons beyond [his] control delayed the first attempt[,]. . . the [second] attempt could be both sides, [and] the [third] attempt fall[s] on [him] for not knowing that e[-]filing had to be in PDF." (*Id.* at 2.)

Based on Plaintiff's substantiated demonstration of his specific unsuccessful efforts to comply with the deadlines set forth in the Court's orders, the Court finds that Plaintiff is entitled to relief under Rule 60(b). Accordingly,

³ For the certified mail tracking number, the USPS website indicates, "In Transit, Arriving Late" as of October 15, 2020. *See* https://tools.usps.com/go/TrackConfirmAction?qtC_tLabels1=70192970000089834955 (last visited Aug. 6, 2021). For the return receipt tracking number, the USPS website indicates, "Return Receipt Associated." *See* <https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=9590940259520062672525%2C> (last visited Aug. 6, 2021).

IT IS on this 25th day of August 2021 **ORDERED** that:

1. Plaintiff's Motion (ECF No. 23) is **GRANTED**.
2. Plaintiff's Amended Complaint (ECF No. 24) shall serve as the operative pleading in this matter.⁴
3. Defendants shall answer or otherwise respond by **September 24, 2021**.

s/ Michael A. Shipp

MICHAEL A. SHIPP

UNITED STATES DISTRICT JUDGE

⁴ Per the Clerk's January 14, 2021 Quality Control Message, Plaintiff must resubmit the Motion for Reconsideration (ECF No. 23) and Amended Complaint (ECF No. 24) with a proper hand signature.